

Osorio & Associates, LLC

U.S. DISTRICT JUDGE
S.D.N.Y.

Members:

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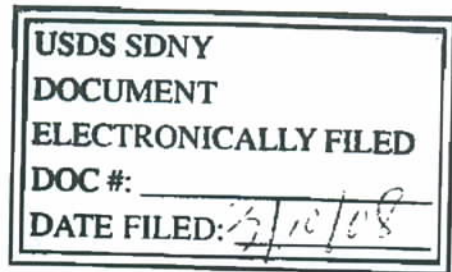
March 7, 2008

Honorable Harold Baer, Jr.
United States District Judge
500 Pearl Street
Chambers 2230
New York, N.Y. 10007

By Fax: 212-805-7901

RE: Manganiello v. City of New York, et. al.
Civil Action No.: 07 CV 3644

Dear Judge Baer:



We write to seek the Court's assistance concerning a serious discovery issue and an order staying any motion for summary judgment until this discovery issue is resolved, or in the alternative permission to move to strike the defendants' pleading for failure to comply with discovery.

On October 16, 2007, the undersigned served a demand for deposition of the following witnesses (three of which are defendants) to be produced day to day beginning on December 11, 2007.

1. MAUREEN McMAHON
2. The Laboratory Technician(s) who performed the gun shot residue, skin, hair, fiber and print analysis during the investigation into the homicide of Albert Acosta (If different from Maureen McMahon)
3. Police Officer Ortiz, SHIELD NO.: 15002 (43rd Precinct)
4. POLICE OFFICER RODRIGUEZ (43rd Precinct)
5. ALEX PEREZ
6. MIRIAN NIEVES
7. SHAWN ABATE

Although six other witnesses were produced for deposition, none of the above witnesses

were produced nor has defense counsel provided a date for these witnesses to be produced. Additionally on February 11, 2008, the undersigned issued a subpoena for A.D.A. Scaccia to appear for a non-party deposition. Defense counsel then wrote the undersigned and advised that she was representing A.D.A. Scaccia and could not appear at the deposition, as such Scaccia would not appear.

As per the current Scheduling Order, the discovery deadline is next week and the undersigned is scheduled to begin a trial on March 11, 2008. Defense counsel has advised that they will be submitting a summary judgment motion next week. The defendant's failure to comply with the Plaintiff's notice for depositions will severely handicap Plaintiff's ability to respond to the defendants' motion.

I attempted to work this issue out with my adversary to no avail.

Respectfully submitted,

BY:


Michael H. Joseph, Esq.

c: Hillary Fromer, Esq.
By Fax: 212 788 9776

The defendant is directed to produce the witnesses for whom notices of deposition have been served, and that the depositions all occur before the deadline for discovery, and I'm assuming that they have had no more than a total of 10 depositions, which is all that I allow without significant reasoning. The defendants are welcome to file their motion for summary judgment whenever they choose, so long as I have a fully briefed motion by April 11, 2008, pursuant to the Pretrial Scheduling Order.

SO ORDERED:


Harold Baer, Jr., U.S.D.J.

Date: March 7, 2008